IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(Crl.).No. 139 of 2007(S)

PETITIONER:

MANOJ @ MANOHARAN,
S/O.KUMARAN NAIR, NAYARU KULATHINGAL VEEDU,
P.O.SANTHIPURAM, KODUNGALLUR,
REPRESENTED BY POWER OF ATTONRNEY HOLDER,
VASU, S/O.THOTTUPURATHU ADIMA, AGED 52,
P.O.SANTHIPURAM.

BY ADV. SRI.S.MOHAMMED AL RAFI
SRI.K.J.NASARUL ASLAM

RESPONDENTS:
---

1. SUPERINTENDENT OF POLICE, THRISSUR.

2. SUB INSPECTOR OF POLICE,
MATHILAKAM.

3. DEEPA, D/O KARTHIKEYAN,
EZHUVATHRA VEEDU, VELLANKALLUR VILLAGE,
VELLAIVATTOM P.O., THRISSUR DISTRICT.

BY SRI.V.K.MOHANAN, ADDL.DGP.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN & K. HEMA, JJ.

W.P.(Crl).No.139 of 2007

Dated this the 19th day of June, 2007.

JUDGMENT

Raman, J.

The case of the petitioner is that his eldest son is in the unlawful custody of 3rd respondent and without the consent of petitioner, 3rd respondent has shifted the minor child from Bharatiya Vidya Bhavan, Kodungalloor and his whereabouts are not known. Admittedly, the 3rd respondent is the mother of the child and some Family Court proceedings are pending between the parties.

2. Learned Addl. Director General of Prosecutions, on instructions, submitted that the alleged detenu is with the sister of the 3rd respondent. When it is alleged that the child is in the unlawful custody of the 3rd respondent, who is none other than the mother of the alleged detenu, in view of the pendency of the Family Court proceedings and, in view of the nature of the allegations made, the proper course open to the petitioner is to approach the Family Court for necessary relief under the Guardian and Wards Act or the like statutes. It is open to the petitioner to approach the Family Court for redressal of his grievance, if any, as we are not satisfied of a prima facie case for invoking the extra ordinary jurisdiction under Article 226 of the Constitution.

The writ petition is dismissed subject to what is stated above.

P.R.RAMAN, JUDGE.

K. HEMA, JUDGE.

Krs.